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February 13, 2002 LB 185, 470A, 857-860, 950, 959

SENATOR CUDABACK: Thank you, Senator Connealy and Senator Pederson. Senator Brashear, and this will be your third time, Senator. Mr. Clerk, would you like to read some items, please, before?

CLERK: Thank you, Mr. President. Excuse me, Senator Brashear. Mr. President, Executive Session of the Banking, Commerce and Insurance Committee at 11:15 in Room 2022; Banking, Commerce and Insurance at 11:15. Confirmation report from General Affairs. General Affairs also reports LB 950 to General File, LB 959 indefinitely postponed. Bills read on Final Reading this morning were presented to the Governor at 10:30 a.m. (re: LB 857, LB 858, LB 859, LB 860); and an amendment to LB 470A to be printed by Senator Bromm. Thank you, Mr. President. (Legislative Journal pages 612-613.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Brashear, your time starts now.

SENATOR BRASHEAR: Thank you, Mr. President, members of the body. We've had an opportunity to talk about how this act, as proposed, would not provide equal protection under the law. We've had an opportunity to talk about how it provides for arbitrary enforcement. I'd like to talk now a little bit about due process. As I've said before, the bill applies not just to common carriers, but also to individual employees. The employees are specifically subjected to the possibility of punitive fines. I think there's reason for concern when individuals are subject to punitive statutes that use administrative procedure and not criminal procedure to punish them. Administrative procedures by the Public Service Commission use what I would loosely call more relaxed rules of evidence, and they have considerably fewer procedural protections for an individual charged with a violation under this schematic proposed by the committee amendment and the amendment to the amendment. Typically, administrative procedure is appropriate when a person has sought a privilege or a benefit from the state, such as a license which is administered by an administrative board. In this particular instance, these employees have not sought a privilege from the state. They are